

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 13896, AS AMENDED, CODIFIED AS APPENDIX "A" OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING ARTICLE 5, "HISTORIC PRESERVATION OVERLAY DISTRICTS ("HSE", "HC", "DD") OF CHAPTER 4 "DISTRICT REGULATIONS" TO REPEAL THE LANGUAGE IN SECTIONS 4.500 THROUGH 4.510 AND REPLACE WITH SECTIONS 4.500 THROUGH 4.512 CONTAINING NEW LANGUAGE FOR REGULATING HISTORIC PROPERTIES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the Citywide Historic Preservation Plan in July 2003;

WHEREAS, the Preservation Plan contained twenty-one recommended amendments to Chapter 4, "District Regulations", Article 5 "Historic Preservation Overlay Districts" of the Zoning Ordinance, also known as the Preservation Ordinance to make the ordinance more easily understood; and

WHEREAS, city staff has incorporated recommended amendments, revised language and revised the order of sections in the current preservation ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL  
OF THE CITY OF FORT WORTH, TEXAS AS FOLLOWS:

## **SECTION 1.**

Chapter 4, “District Regulations” Article 5 “Historic Preservation Overlay Districts” (“HSE”, “HC”, “DD”) of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, “Historic and Cultural Landmarks Commission”, is amended to repeal the language contained in sections 4.500 through 4.510 and replace with new and revised language to be contained in sections 4.500 through 4.512, to read as follows:

### **ARTICLE 5. HISTORIC PRESERVATION OVERLAY DISTRICTS ("HSE," "HC," "DD")**

#### **Sec. 4.500. Purpose and intent.**

As a matter of public policy, the protection, enhancement and perpetuation of landmarks or districts of historical, cultural, architectural or archeological importance and significance are necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that the City of Fort Worth represents the unique confluence of time and place that has shaped the identity of generations of citizens, collectively and individually, and produced significant historical, cultural, architectural and archeological resources that constitute their heritage. The provisions of this article are intended to:

1. Protect, enhance and perpetuate landmarks and districts of historical, cultural, architectural or archeological importance which represent or reflect distinctive and important elements of Fort Worth's historical, cultural, architectural, archeological, social, economic, ethnic and political heritage;
2. To promote the preservation and conservation of the heritage, architecture, culture and development of Fort Worth;
3. Educate elected officials, appointed bodies, city departments, and the public at large about the heritage of Fort Worth and the benefits of utilizing historic preservation to achieve the goals and vision of the City;
4. Foster civic pride by recognizing accomplishments of the past;
5. Protect and enhance the attractiveness of the city to tourists and visitors and support and stimulate the economy;
6. Ensure the harmonious, orderly and efficient growth and development of the city;
7. Encourage appropriate land uses, which respect the historic character and development of significant sites, features, structures and neighborhoods;
8. Engage the public in discourse on the preservation of the City, its benefits, and participation in planning for historic preservation;
9. Promote the economic prosperity and welfare of the community;
10. Encourage the stabilization, restoration and improvement of property and property values; and

11. Maintain a generally harmonious outward appearance of both historic and modern structures which are compatible and complementary in scale, form, color, proportion, texture and material.

**Sec. 4.501. Appointment of historic preservation officer.**

The planning director shall appoint a qualified staff person to serve as Historic Preservation Officer ("HPO"). The Historic Preservation Officer shall administer this article and advise the Historic and Cultural Landmarks Commission on matters submitted to the commission. In addition to serving as representative of the Historic and Cultural Landmarks Commission, the Historic Preservation Officer is responsible for coordinating the city's historic preservation activities with those of local, state and federal agencies and with local, state, and national nonprofit preservation organizations. The Historic Preservation Officer shall maintain the historic resources survey and shall update the survey from time to time.

**Sec. 4.502. Districts established.**

- A. Establishment of categories. There shall be three categories of protection for historically, culturally, architecturally or archaeologically significant properties in the City of Fort Worth, as follows:
  1. Highly significant endangered ("HSE");
  2. Historic and cultural landmark, ("HC") if an individual structure or site, or historic and cultural landmarks district, if more than one structure or site ;and
  3. Demolition delay ("DD").

These historic preservation overlay districts may appear on the official zoning map from time to time as required by section 4.503H.

- B. Previously designated overlay districts. All places, objects, sites, structures or property heretofore designated by the city council as "HC" historic and cultural sub-districts or "HC" historic and cultural landmark overlay districts under pre-existing provisions of the zoning ordinance shall be accorded the protection of property designated as historic and cultural landmark under this article and shall bear the appropriate mark in their zoning designation. Tax incentives granted for renovation, restoration or rehabilitation under pre-existing provisions of the zoning ordinance shall remain in force.
- C. Relationship of designations to base zoning districts.
  1. Designation of a structure, site or area by the city council as "HSE," "HC," or "DD" is intended as a zoning overlay which supplements the primary underlying zoning district classification. The permitted uses of the property shall be determined and controlled by the use regulations set forth for the primary zoning district classification for the property. However where the proposed use of a historically significant property may adversely impact the character or integrity of the property, the provisions of this article are to be used to encourage an appropriate alternative.

2. A historic overlay district is subject to the regulations of the primary zoning district classification. However, where adopted design guidelines of a district recommend a more historically appropriate yard setback, building height, lot dimension or site configuration than the base zoning district allows, the design guidelines shall prevail however in no instance shall this relieve the requirement for a variance from the Board of Adjustments in compliance with the provisions set out by this or any other adopted ordinance.
  3. Design guidelines adopted for any district shall be considered supplementary to any provision of this article and the regulations of the City of Fort Worth. For all instances where this article shall be applied, the prevailing precedence shall be as follows:
    - a. Chapter 4, Article 5 of the Comprehensive Zoning Ordinance of the City of Fort Worth for all matters of process, procedure and regulation;
    - b. The adopted guidelines of a district, the City of Fort Worth, or the Secretary of the Interior for all matters of rehabilitation, restoration or preservation; and
    - c. All other City of Fort Worth ordinances, regulations or policies as they may apply to any action described within this article.
  4. In no instance shall the provisions of this article be construed to exempt any issue of life safety or to provide relief from the provisions of the adopted building code without the written consent of the Chief Building Official.
  5. If there is any conflict between the provisions of this article and any other provision of the zoning ordinance, the most restrictive regulation shall apply in the absence of a specific directive to the contrary.
- D. General criteria for designation. The following criteria and supplemental examples shall be used to propose the significance of structures, sites and their features, or neighborhoods and to evaluate designation by the City of Fort Worth as highly significant endangered, historic and cultural landmark, historic and cultural landmark district and demolition delay:
1. Is distinctive in character, interest or value; strongly exemplifies the cultural, economic, social, ethnic or historical heritage of the City of Fort Worth, State of Texas or the United States, including, but not limited to:
    - a. Site or structure associated with a particular ethnic, religious, social or cultural group's history or development;
    - b. Site or structure associated with the founding, development, or expansion of an historical or established business in the City of Fort Worth, the State of Texas or the United States; or
    - c. Site or structure associated with a documented theme in the history of Fort Worth such as the Pioneer and "Fort Worth" era, the Cattle Drives and the Stockyards, Railroads, development patterns, or oil, aviation and other industries.
  2. Is an important example of a particular architectural type or specimen in the City of Fort Worth, including, but not limited to:

- a. Example of a high style form of architecture such as Victorian, Art Deco or Beaux Arts;
  - b. Example of a revival style of architecture such as Classical revival or Tudor Revival; or
  - c. Example of documented vernacular or regional architecture such as a shotgun or bungalow.
3. Has been identified as the work of an important architect or master builder whose individual work has contributed to the development of the City of Fort Worth, including, but not limited to:
  - a. Work of an architect, landscape architect or builder known on a national scale such as Louis Kahn, Phillip Johnson, or Tadao Ando;
  - b. Work of an architect or builder known for specific contributions to Fort Worth such as Wyatt Hedrick, Preston Geren, or Wiley Clarkson; or
  - c. Work associated with an architecture, landscape architecture or building firm identified with significant projects in Fort Worth such as Sanguinet and Staats; Hare and Hare, or Van Slyke & Woodruff.
4. Embodies elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation, including, but not limited to:
  - a. Contains specific and identifiable architectural features;
  - b. Contains information about primitive or archaic construction methods or design; or
  - c. Contains materials significant for their use or manner of use.
5. Bears an important and significant relationship to other distinctive structures, sites or areas, either as an important collection of properties of architectural style or craftsmanship with few intrusions, or by contributing to the overall character of the area according to a plan based on architectural, historic or cultural motif, including, but not limited to:
  - a. Contributes to a neighborhood or area described by previous historical survey as eligible local or National Register District;
  - b. Associated with an established pattern of development applied similarly across a defined neighborhood or subdivision;
  - c. Associated with a style of architecture, type of construction, or detailed feature of significance to a class of building or geographic area.
6. Possesses significant archeological value which has produced or is likely to produce data affecting theories of historic or prehistoric interest, including, but not limited to:
  - a. Tests a hypothesis or process in important research in the social sciences, natural sciences, or humanities;
  - b. Corroborates or enhances current information on the past, its people, or processes; or

- c. Reconstructs a culture or site for the purpose of identifying and explaining connections to or between historic or prehistoric events, cultures, or peoples.
7. Is the site of a significant historic event, including, but not limited to:
    - a. Location of a specific event important to the history of the city, state, or country such as a Civil War battlefield or the site of the original military fort at Fort Worth;
    - b. Specific location of a pattern of events significant to the history of the city, state, or country such as part of the Chisholm Trail or a depot on the railroad; or
    - c. General location establishing a pattern of events significant to the city, state, or country such as an industrial district representing the city's achievements in the meatpacking industry or a neighborhood developed by oil barons.
  8. Is identified with a person or persons who significantly contributed to the culture and development of the City of Fort Worth, State of Texas or the United States, including, but not limited to:
    - a. Site associated with a specific person of significance to the city, state, or country such as the home of John Ryan, the office of Amon Carter, or the grave of Ripley Arnold;
    - b. Site associated with a business or personal interest to someone of significance such as a neighborhood developed by John Ryan or the site of a club with membership of noteworthy citizens; or
    - c. Site associated with a known organization or group of people with significance such as a fraternal organization or congregation.
  9. Represents a resource, whether natural or man-made, which greatly contributes to the character or image of a defined neighborhood or community area, including, but not limited to:
    - a. Explain a feature that caused a specific pattern of development such as the effect the Trinity River has on river front property or the effect the Interstate Highway has on the splitting of one historical neighborhood into many neighborhoods;
    - b. Defines a relationship between features, sites, or structures such as the orientation of structures around a community park or the location of a school within a neighborhood; or
    - c. Expresses an aesthetic or historic sense of a period of time such as a carriage house or a hand drawn well.
  10. Is designated as a Recorded Texas Historic Landmark or state archeological landmark, or is included on the National Register of Historic Places.

#### **Sec. 4.503. Procedures for designation of property.**

The procedures for designation of sites, features, and structures as highly significant endangered, historic and cultural landmark (individual or as a district), and demolition delay are as follows:

##### **A. Initiation of nomination.**

1. An application may be submitted by the owner of a property, their duly authorized agent, or by the City Manager.
2. In lieu of an application, the Historic and Cultural Landmarks Commission or the City Council may adopt a resolution calling for the Historic Preservation Officer to submit a nomination to the Historic and Cultural Landmarks Commission for consideration. Where the Historic and Cultural Landmarks Commission adopts a resolution, the nomination may not be considered until the next regularly scheduled meeting.
3. Nominations prepared and submitted by any authorized agent shall contain the signatures of the owner or owners unless created by resolution of the City Council or the Historic and Cultural Landmarks Commission.

##### **B. Nomination.**

1. Application contents. All applications submitted for the designation of property as highly significant endangered, historic and cultural landmark or demolition delay shall contain at a minimum, the following information:
  - a. Site address, legal description and base zoning for the property or properties in question. For the designation of a structure or feature on a partial lot or parcel, a metes and bounds survey stamped by a surveyor licensed by the State of Texas shall be required;
  - b. Property owner or owners name, mailing address, and telephone number;
  - c. Survey or site plan depicting the location of all buildings and site features contained within the property to be designated;
  - d. Photographs of each elevation of all buildings and site features contained within the property to be designated;
  - e. Written description of all buildings and site features with materials, architectural features, height, fenestration and other significant details and a description of each building or feature's status as contributing or non-contributing to the significance of the site;
  - f. Written nomination containing applicability of the criteria for designation; and
  - g. Application form containing the signature of the owner or owners.
2. Where a nomination is for the designation of a historic and cultural landmark district, the application shall contain the signatures of owners in support of the district as follows:
  - a. 50 percent or more of the individual tracts, parcels or platted lots to be located within the boundaries of the proposed district; and
  - b. 50 percent or more of the land area to be located within the boundaries of the proposed district.
  - c. Two or more platted lots developed together shall be counted as one lot.

- d. Each vacant platted lot of sufficient size to be developed under the current zoning designation for the property shall be counted as one lot.
3. For purposes of this section, the historic preservation officer is the administrative official with original jurisdiction to review an application for completeness. An application shall not be accepted by the historic preservation officer until it contains all information prescribed herein. For nominations submitted by resolution of the City Council or the Historic and Cultural Landmarks Commission, an application shall be deemed complete upon a majority affirmative vote of the appropriate body.

C Notice of nomination. When the historic preservation officer deems an application to be complete, a notice of the pending nomination shall be mailed to all owners of nominated property at least ten days before the scheduled Historic and Cultural Landmarks Commission hearing. The notice shall be served by depositing the same, properly addressed and postage paid, in the United States Mail. In the case of nomination for an historic and cultural landmarks district, a notice of nomination shall be mailed to each individual owner of property within the district in accordance with this section. The most recently approved municipal tax roll showing the name and address of the owner shall be used for this purpose.

1. The notice of nomination shall include the following information:
  - a. A description of the property proposed for nomination, including the contributing or non-contributing status of properties included within a district nomination;
  - b. The proposed category of protection and the criteria on which the nomination is based;
  - c. A description of the benefits, restrictions and other terms of the proposed designation, including but not limited to tax incentives and restrictions on demolition and rehabilitation;
  - d. The time, place and date of public hearings by the Historic and Cultural Landmarks Commission to consider such designation;
  - e. A statement of the stay of actions after nomination provided for in paragraph C below; and
  - f. A form on which the owner may explain the reasons why the nomination should be approved or denied.

D. Stay of actions after nomination.

1. Interim controls. The governing body finds that immediate, temporary controls prohibiting alteration, demolition or relocation of properties for which a notice of nomination as highly significant endangered, historic and cultural landmark or historic and cultural landmarks district has been mailed, and prohibiting demolition or relocation of structures for which a notice of nomination as demolition delay has been mailed are required in order to further the purpose of this article.
2. Highly significant endangered, historic and cultural landmark and historic and cultural landmarks district. After the historic preservation officer has mailed a notice of nomination as highly significant endangered, historic and cultural



landmark or historic and cultural landmarks district to the owner or owners of such property by standard mail, all permits for construction, repairs, alterations, additions, stabilization, restoration, rehabilitation, demolition or relocation of any building, object or structure on the property shall be subject to the certificate of appropriateness requirements contained in section 4.504 for a period of 135 days or until the proposed designation is denied. In the event that the proposed designation is approved, the property shall be subject to all certificate of appropriateness requirements applicable to such designation. Permits for which an application has been submitted to the appropriate city department before the notice of nomination is mailed shall not be subject to interim controls or the certificate of appropriateness requirements.

3. Demolition delay. After the historic preservation officer has mailed a notice of nomination for designation as demolition delay to the owner or owners of such property by standard mail all permits for demolition or relocation of any building, object or structure on the property shall be subject to the certificate of appropriateness requirements contained in section 4.504 for a period of 135 days or until the proposed designation is denied.. In the event that the proposed designation is approved, the property shall be subject to all certificates of appropriateness requirements applicable to demolition delay properties. Permits for which an application has been submitted to the appropriate city department before the notice of nomination is mailed shall not be subject to interim controls or the certificate of appropriateness requirements.
4. Relief from interim controls. An owner may seek relief from the interim controls by requesting a certificate of appropriateness in accordance with the procedures contained in section 4.504. In addition, an owner may seek expedited relief from the interim controls by presenting information to the Historic and Cultural Landmarks Commission to show unusual and compelling circumstances justifying such relief. Such request shall be filed with the historic preservation officer within ten days after receipt of the notice of nomination and shall be accompanied by a copy of a bona fide written agreement requiring relocation or demolition of the structure, which shall have been entered into prior to receipt of the notice of nomination, or other evidence that the interim controls will cause substantial imminent harm to the owner which justifies expedited consideration of the owner's request for relief. The owner shall also present evidence concerning plans for development of the property. The Historic and Cultural Landmarks Commission shall conduct a hearing on such matter within 15 days after the request for relief is filed. The Historic and Cultural Landmarks Commission may consider factors such as the existence of a written, bona fide sales contract for the property; plans for relocation or demolition of the property; plans for development of the property; the effect of the interim controls on such plans; and other unusual and compelling circumstances justifying relief from the interim controls. It is the governing body's intent to keep historic structures whenever possible, in recognition of the fact that historic structures have been needlessly demolished, resulting in vacant lots. In the event that the Historic and Cultural Landmarks Commission finds unusual and compelling circumstances justifying relief from the interim

controls, the Historic and Cultural Landmarks Commission may expedite review of the nomination, shorten the term of the interim controls, release the owner from such controls or take such other action as the Historic and Cultural Landmarks Commission deems to be appropriate.

- E. Consideration of designation. Any property nominated for designation as HSE, HC (individual or district), or DD shall be considered for designation at public hearings by the Historic and Cultural Landmarks Commission, the zoning commission, and the City Council.
1. Historic and Cultural Landmarks Commission hearing. There shall be a public hearing of the historic and cultural landmarks commission before a recommendation is voted upon the designation of a property or district.
    - a. Upon the determination by the HPO that a complete application has been received for designation, a public hearing of the historic and cultural landmarks commission shall be scheduled. At this hearing, the HPO shall verify the required signatures of property owners have been received, present any proposed design guidelines for review, present the context for establishing contributing status of property within the district and a list of the properties considered to meet this criteria, and describe the economic incentives eligible under the designation. The historic and cultural landmarks commission may accept this testimony or may continue consideration of the designation and request amendments or modifications to the information presented.
    - b. The commission may recommend the designation and adoption of the proposed guidelines, may recommend the designation and guidelines with specific modifications or may recommend denial of the designation.
    - c. Where the commission finds it necessary to continue discussions on any part of the nomination, finds opposition to the nomination, or cannot recommend approval of the proposed design guidelines, consideration of both the nomination and the guidelines may be continued to a date agreed upon by an affirmative vote of the commission.
  2. Zoning Commission hearing. Upon submittal of the recommendation of the Historic and Cultural Landmarks Commission, the proposed designation and where applicable design guidelines shall be submitted to the zoning commission for its review and recommendations. The zoning commission shall give notice and conduct its public hearing on the proposed designation and where applicable design guidelines within 45 days of the receipt of such recommendation from the Historic and Cultural Landmarks Commission, or as soon thereafter as is reasonably practicable. The hearing shall be in the same manner and according to the same procedures for amending the zoning map as set forth in chapter 3, article 5.
  3. City council hearing. The city council shall give notice and conduct its hearing on the Historic and Cultural Landmarks Commission's recommendation concerning the proposed designation within 45 days of receipt of the

recommendation of the zoning commission, or as soon thereafter as reasonably practicable. The city council shall give notice, follow the publication procedure, hold the hearing, and make its determination in the same manner and according to the same procedures for amending the zoning map as set forth in chapter 3, article

4. Vote required for designation by the City Council. If an owner of a property nominated for designation as highly significant endangered, historic and cultural landmark or demolition delay or the owners of at least 20 percent of an area nominated for designation as an historic and cultural landmarks district protest designation by submitting a written, signed protest, the affirmative vote of at least 3/4 of all members of the city council is required in order for the designation to take effect, in accordance with section 211.006 of the Texas Local Government Code.
- F. Recording of designations on zoning map. Upon designation of a site, structure or area as highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay, the city council shall cause the designation to be recorded on the official zoning maps of the city. All zoning maps shall indicate designated highly significant endangered properties with the suffix "HSE," historic and cultural landmarks, whether designated individually or as a district, with the suffix "HC," and demolition delay properties as "DD," in addition to the marks indicating the primary underlying zoning district classification.
- G. Filing of designations in property records. Record of designation of a site, structure or area as highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay shall be recorded in the official property records of the county in which the property is located. Property owners who file an application for designation shall record such designation and provide proof of filing to the historic preservation officer. In all other cases the historic preservation officer shall file such designation. Proof of recordation shall be provided to the historic preservation officer prior to the receipt of any subsequent economic incentives from the City of Fort Worth.
- H. Amendments to an existing historic and cultural landmark district. Following the designation by the City Council of a historic and cultural landmark district, amendments to change the district boundary, the adopted design guidelines or the list of contributing properties shall follow the procedures for an amendment to this ordinance and in accordance with the following provisions:
1. The boundary of an existing district may be amended or otherwise altered to include additional properties where each of the following conditions exist:
    - a. The geographic area proposed for inclusion within the existing boundary is contiguous to the existing district;
    - b. The area proposed for inclusion is found to meet at least three of the ten criteria for designation as described in this article;

- c. The area proposed for inclusion has a similar context and character that reasonably relates to the existing district, either by architectural, historical, or cultural motif; and
    - d. A petition in support of the amendment signed by the owners of more than 50% of the individual tracts, lots, and parcels and more than 50% of the total land area within the area proposed for inclusion.
  2. The design guidelines for a district may be amended at the request of the City Council or property owners where each of the following conditions exist:
    - a. A petition in support of the amendments signed by the owners of more than 50% of the individual tracts, lots, and parcels and more than 50% of the total land area within the district; and
    - b. The existing guidelines shall remain in effect, unless otherwise found to be void, until the date of approval by the City Council of any amendments or alterations to the guidelines.
  3. The list of contributing structures for a district may be amended periodically at the request of the district or the City Council where each of the following conditions exist:
    - a. A petition of support signed by all owners of property being added to or subtracted from the list; and
    - b. A statement for each property as to why the change in status is sought, accompanied by any additional information that may be requested by the historic preservation officer to support the change in status.
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#### **Sec. 4.504. Certificates of appropriateness.**

To preserve significant structures and neighborhoods, changes shall be documented and reviewed to determine if the proposed change is appropriate to the character of the area designated or pending designation as HSE, HC, or DD and does not adversely impact its significance.

- A. Certificate of appropriateness required. All changes to the exterior of a structure designated or pending designation as HSE or HC and the land by which it is accessed shall require review for appropriateness with the provisions of this article, and adopted design guidelines. In addition, the demolition or relocation of any structure designated or pending designation as HSE, HC, or DD shall also require review for appropriateness in the same manner.
1. Work, which does not involve a change to material, configuration, dimension, or outward appearance, shall be considered in-kind repair and does not require a certificate of appropriateness.
  2. Removal of non-original and non-historic materials, restoration of existing features, repairs, alterations and construction not visible from the public right of way, and alteration of a non-contributing structure shall be reviewed by the historic preservation officer and if found to be appropriate and consistent with applicable standards and guidelines may be issued a certificate of appropriateness. At the discretion of the historic preservation officer, an application found to alter significantly the character of a structure or site may be referred to the Historic and Cultural Landmarks Commission for further review.

3. Alterations and construction visible from the public right of way, demolition, relocation of a structure, and any an application found to alter significantly the character of a structure or site shall be reviewed by the Historic and Cultural Landmarks Commission.

- B. Application for a certificate of appropriateness. The property owner or authorized agent shall file an application for a certificate of appropriateness with the historic preservation officer prior to the commencement of any work. The application shall contain a completed application form, as provided by the historic preservation officer, with the signature of the property owner or authorized agent and attachments as required by the historic preservation officer in order to evaluate the appropriateness of the application, including but not limited to:
1. Site plan of the property;
  2. Photographs of all affected elevations of the structure and property;
  3. Detailed description of the proposed work;
  4. Scaled drawings or renderings of all proposed changes for each affected elevation, including dimensions, materials and profile drawings;
  5. Structural reports and documents;
  6. Samples of materials to be used;
  7. For demolition and relocation applications, rationale why the structure is no longer significant, based on the criteria for designation, or if applicable, proof of economic hardship; and
  8. Any other information requested by the Historic and Cultural Landmarks Commission or historic preservation officer necessary to evaluate the appropriateness of the proposed work.

An application shall not be accepted until it is determined complete and correct by the historic preservation officer.

- C. Criteria for evaluation of appropriateness. The intent of the historic designation is to preserve the character, identity, and presence of historic structures and sites without constraining creative use and adaptation. Therefore, in determining the appropriateness of proposed changes to an area designated or pending designation the following standards adapted from the Secretary of the Interior's Standard for Rehabilitation shall be used in conjunction with approved design guidelines and applicable city code:
1. A structure or property shall be used for its historic purpose or be placed in a new use that is permitted under the zoning ordinance. The use shall require minimal change to the defining characteristics of the structure, property, site and environment.
  2. The historic character of a structure or property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a structure or property shall be avoided.
  3. Each structure or property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as

- adding conjectural features or architectural elements from other structures or property, shall not be undertaken.
4. Most structures and property change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
  5. Distinctive features, finishes and construction techniques or examples of craftsmanship which characterize a structure or property shall be preserved within the limits permitted by applicable codes and ordinances.
  6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials, provided such materials meet other applicable codes and ordinances. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
  7. Chemical or physical treatments, such as sand-blasting, which cause damage to historic materials, shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
  8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
  9. New additions, exterior alterations, or related new construction shall not destroy historic materials which characterize the structure or property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the structure or property and its environment.
  10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic structure or property and its environment will be unimpaired.
  11. New construction, which takes place after demolition or removal of a structure or property in an historic and cultural landmarks district has been approved, must comply with the design guidelines for the district.
  12. New construction, which takes place after demolition or removal of a structure that is an accessory use to a structure designated highly significant endangered or historic and cultural landmark, must comply with the design guidelines in order to maintain the historic character of the designated structure.
- D. Procedure for review of a certificate of appropriateness. Upon acceptance of a completed application, the historic preservation officer shall review the project for consistency with applicable city ordinances, the provisions of this article and adopted design guidelines.
1. Historic preservation officer. Where all or part of the proposed work can be considered for review by the historic preservation officer under section 4.504 (A) [2], the historic preservation officer may issue a certificate of appropriateness when the proposed work is found to be consistent with all regulations and guidelines. Where the historic preservation officer considers the proposed work to be inconsistent with applicable regulations and guidelines or potentially to have impact on the character of a structure of site the application shall be forwarded to

- the Historic and Cultural Landmarks Commission for consideration of the certificate of appropriateness.
2. Historic and Cultural Landmarks Commission. The Historic and Cultural Landmarks Commission shall conduct a public hearing to consider an application for a certificate of appropriateness within 45 days after it is accepted by the historic preservation officer or as soon thereafter as is reasonably practicable. .
    - a. Notice to owners of adjacent property. Upon receipt of a complete application for a certificate of appropriateness, the historic preservation officer or a designee shall prepare a notice of public hearing, which shall be mailed to the owner or owners of property located within a distance of 200 feet of the property listed within the application, at least ten days prior to the Historic and Cultural Landmarks Commission hearing. The notice may be served by depositing the same, properly addressed and postage paid, in the United States Mail.
    - b. For applications seeking to demolish or relocate a structure designated or pending designation as HSE, HC or DD, the city manager or designee shall cause the posting of at least one sign on the property used to access the structure no less than ten days before the date of the public hearing at which the application will be considered by the Historic and Cultural Landmarks Commission. Where possible, the sign shall be conspicuously located near the public right of way. The sign shall indicate the pending request for demolition or relocation and provide a contact source for additional information. The posting of the sign or its maintenance shall not be deemed a condition precedent to the holding of any public hearing, to the approval or denial of the certificate of appropriateness or to any other official action concerning the application.
    - c. The owner or authorized representative and all other persons who have executed a purchase contract or option contract for purchase of the property, or their representatives, shall appear at the hearing. The owner, potential buyers and all other interested parties, including local preservation groups, will be heard concerning the application. For requests to demolish or relocate a structure, the Historic and Cultural Landmarks Commission may request evidence concerning plans for the future development of the property.
  3. Decision of the Historic and Cultural Landmarks Commission . At the conclusion of the public hearing, or as soon thereafter as is reasonably practicable, the Historic and Cultural Landmarks Commission shall take one or more of the following actions:
    - a. If the Historic and Cultural Landmarks Commission finds that the application is consistent with applicable regulations and guidelines, a certificate of appropriateness may be approved, with or without any conditions that may be appropriate;
    - b. If the Historic and Cultural Landmarks Commission finds that the application is not consistent with applicable regulations and design guidelines, a certificate of appropriateness may be denied with or without prejudice;

- c. If the Historic and Cultural Landmarks Commission fails to issue the certificate of appropriateness because the proposed work is not consistent with applicable regulations and design guidelines, the owner shall have the right to request deviations from the design guidelines from the Historic and Cultural Landmarks Commission. In order to receive a deviation from the guidelines, the owner must prove by a preponderance of the evidence that no reasonable opportunity exists to recover the cost of the proposed work if it is required in accordance with the design guidelines. If the Historic and Cultural Landmarks Commission finds that the owner has failed to satisfy this burden of proof, the certificate of appropriateness will be denied. If the Historic and Cultural Landmarks Commission finds that the owner has satisfied the burden of proof, the deviation from the design guidelines may be approved and the work allowed, with or without conditions. In determining whether to grant such a deviation, the Historic and Cultural Landmarks Commission may consider the cost to perform the work in compliance with the criteria and design guidelines, the value of the property, the extent to which a deviation is necessary to allow the owner a reasonable opportunity to recover the cost of the work, whether granting the deviation will harm an existing or proposed historic and cultural landmarks district or property designated highly significant endangered or historic and cultural landmark and whether the proposed work is in harmony with the spirit and purposes of this article. The Historic and Cultural Landmarks Commission and city staff, in consultation with local preservation groups and other interested parties, shall explore with the owner, or a representative, alternatives for performance of the proposed work that will preserve the structure or property to the greatest extent that is economically feasible. If a deviation is granted, the certificate of appropriateness for the proposed work shall state the terms and conditions of the deviation. All deviations shall be in compliance with all other city codes and ordinances.
- d. If the Historic and Cultural Landmarks Commission finds that there is not enough information to reasonably determine the appropriateness of proposed work or if all interested parties who may present testimony are not in attendance at the public hearing, the application may be continued until such time necessary information or interested parties are available.
4. Certificate of appropriateness, loss of significance: If the Historic and Cultural Landmarks Commission finds that a structure is no longer significant; a certificate of appropriateness for demolition or relocation may be approved. In making this determination, the Historic and Cultural Landmarks Commission must find that the owner has established by a preponderance of evidence that the structure has undergone significant and irreversible changes which have caused it to lose the significance, qualities or features which qualified the structure designation.
5. Certificate of appropriateness, economic hardship:



- a. If the Historic and Cultural Landmarks Commission finds that an owner of a property is not entitled to a certificate of appropriateness as a result of loss of significance, the owner shall have the right to introduce evidence to establish that the owner will suffer an unreasonable economic hardship if the certificate of appropriateness is not issued for the proposed demolition or relocation. The owner shall have the burden of establishing by a preponderance of the evidence that an unreasonable economic hardship exists under the criteria set forth in section 4.506.
  - b. If the owner does not establish that an unreasonable economic hardship exists, the certificate of appropriateness shall be denied.
  - c. If the owner does establish that an unreasonable economic hardship exists, the Historic and Cultural Landmarks Commission may delay the issuance of a certificate of appropriateness for up to 180 days from the date of the public hearing and may require the preparation of a salvage plan, documentation of the property and/or the preservation of trees, shrubs and other landscaping of substantial significance. These conditions shall be in compliance with all other city codes and ordinances.
6. Certificate of appropriateness, demolition delay: The Historic and Cultural Landmarks Commission may not deny an application for a certificate of appropriateness for demolition of property designated or pending designation as demolition delay, however, the owner or authorized agent shall be required to participate in a consultation meeting to discuss a process for alternatives to demolition prior to the issuance of a permit, in accordance with the following:
- a. Within thirty (30) days, of submission of an application for demolition, the historic preservation officer shall schedule a consultation meeting with the owner or authorized agent, city staff and interested parties to propose alternatives to the owner which would seek to alleviate the need for demolition. These alternatives may include but are not limited to property tax relief, loans or grants from public or private resources, acquisition of the property, a transfer of development rights, or a variance from provisions of the zoning ordinance or building code. The application shall not be deemed complete by the historic preservation officer until the owner or authorized agent provides a written response to any alternatives proposed in the consultation meeting.
  - b. The historic preservation officer shall upon completion of the application schedule a public hearing in accordance with section 4.504(D). The owner of the property shall be in attendance at the public hearing.
  - c. The Historic and Cultural Landmarks Commission shall conduct a public hearing during which the owner or authorized agent shall present testimony and evidence stating why the structure should be demolished, including but not limited to proof of unreasonable economic hardship, barriers to development, structural deficiency or loss of significance.
  - d. At the conclusion of the public hearing, the Historic and Cultural Landmarks Commission shall issue a certificate of appropriateness for demolition pending the submission by the owner of a response to each

proposal in writing and submitted to the historic preservation officer for review and acceptance by the Historic and Cultural Landmarks Commission.

- i. As a condition to the certificate of appropriateness, the Historic and Cultural Landmarks Commission may require a delay of no more than 180 days from the date of the hearing..
- ii. During the delay period the owner may request a hearing of the Historic and Cultural Landmarks Commission to present evidence why the delay should be waived or shortened.
- iii. At the end of any delay period, if a suitable alternative plan acceptable to the owner has not been approved by the Historic and Cultural Landmarks Commission, the city shall issue a permit for demolition.
- iv. If the owner of the property can provide a preponderance of evidence that there is no economically viable use of the property without demolition of the structure, the delay period may be waived or shortened to any time less than 180 days at the discretion of the Historic and Cultural Landmarks Commission.
- v. In determining the length of any delay, the Historic and Cultural Landmarks Commission shall consider whether delay of such certificate of appropriateness will cause unreasonable economic hardship to the owner.
- vi. Should the Historic and Cultural Landmarks Commission fail to approve a specific delay period by an affirmative vote, the maximum delay of 180 days allowed by this article shall be required.
- vii. In the event that the owner of property designated demolition delay allows a valid demolition permit to expire without demolishing the property, the owner and subsequent owners of the property shall not be subject to the 180 day demolition delay with regard to applications for a demolition permit submitted to the appropriate city official within three years following expiration of the permit.

E. Documentation of properties to be demolished or relocated. Unless the Historic and Cultural Landmarks Commission determines otherwise, the property owner shall file the following documentation with the historic preservation officer, at the owner's expense, as a condition for the issuance of a certificate of appropriateness for the demolition or relocation of any structure or property designated or pending designation as highly significant endangered or historic and cultural landmark or located in an area designated or pending designation as an historic and cultural landmarks district, other than a non-essential element:

1. Photographs of the structure, property or features to be demolished;
2. Written documentation of the architecture of the structure or property;
3. Documentation that the site has been rezoned (e.g. "PD" Planned Development), replatted, variances granted or that other development requirements have been met; and

4. Additional documentation required for certain highly significant properties:
- Significant historical background of past owners and events in the structure or on the property;
  - Scaled drawings of the floor plan;
  - Scaled drawings of the exterior elevation;
  - Scaled plan indicating the dimensions of the site and exact location of each structure, property and landscape feature on the site; and
  - Any other information the Historic and Cultural Landmarks Commission may deem reasonably necessary to record the proposed demolition or relocation, such as documentation in accordance with the Historic American Building Survey (HABS) or Historic American Engineering Record (HAER)
- F. Re-filing of application for certificate of appropriateness. When an application for certificate of appropriateness is denied by the Historic and Cultural Landmarks Commission, or the Appeals Board on appeal, or when the owner has withdrawn an application after the application has been scheduled for hearing, no new application of like nature shall be accepted by the city or scheduled for a hearing by the Historic and Cultural Landmarks Commission for a period of 12 months following the date of denial or withdrawal, unless the application is denied without prejudice; provided, however, on receipt of written request by the owner describing substantially changed conditions since prior consideration of the application to justify an earlier consideration of the application, the Historic and Cultural Landmarks Commission may waive the mandatory delay period and authorize the acceptance of a new application.
- G. All decisions of the Historic and Cultural Landmarks Commission shall be in writing. The decisions shall state the findings of the Historic and Cultural Landmarks Commission relating to the approval, denial or approval with conditions of the certificate of appropriateness. The historic preservation officer shall provide copies of the decisions of the Historic and Cultural Landmarks Commission to the applicants, the building official and the superintendent of the code compliance division.
- H. Other permits required. The certificate of appropriateness required by this article shall be in addition to any other permit or approval required by state or federal law. A certificate of appropriateness, where required, must be obtained prior to the approval of any building, demolition, relocation or other permit that is required by any code or ordinance of the City of Fort Worth.
- I. Commencement of work. Work, as described by any certificate of appropriateness may not begin until the Historic and Cultural Landmarks Commission has issued a decision on the certificate of appropriateness, and then only after all other required permits and approvals have been granted.
- J. Limitation of term of certificate of appropriateness. Where work approved under a certificate of appropriateness has not commenced within 180 days of the date of

issuance, the certificate of appropriateness shall be considered void and a new application shall be required.

1. As an exception, where a valid permit has been issued by the City of Fort Worth in compliance with the terms of the certificate of appropriateness, the certificate of appropriateness may remain valid until the date of expiration of the associated permit, at the discretion of the historic preservation officer and building official.
2. upon expiration of a certificate of appropriateness, an applicant may apply for an extension of the previously approved project. Where no change is made to the project, the historic preservation officer may approve an extension not to exceed 90 days. Where a change is made to the proposed project or an extension has expired, the applicant shall be required to submit a new application for a certificate of appropriateness.

K. No authority to grant variance. The board of adjustment shall not have jurisdiction to grant any variance from the criteria listed section 4.504(C) or from any adopted design guidelines.

#### **Sec. 4.505. Enforcement.**

A. All work performed pursuant to a certificate of appropriateness shall conform to any requirements included herein. It shall be the duty of the historic preservation officer periodically to inspect any such work to assure compliance. If work is found that is not performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Historic and Cultural Landmarks Commission and verification by the building official, the building official shall issue a stop-work order and all work shall immediately cease. No further work shall be undertaken on a project while a stop-work order is in effect, except at the discretion of the building official where work is deemed to not require a certificate of appropriateness or other review as provided by this chapter.

B. Upon receipt of a stop work order by the building official, a property owner shall file an application for all necessary certificates of appropriateness within 10 business days for review at the next regular hearing of the Historic and Cultural Landmarks Commission.

C. Where an owner fails to submit an application for review within the required time period, a second citation shall be issued and all civil remedies available to the city shall be pursued, including the issuance of a separate citation each day the violation persists.

#### **Sec. 4.506. Unreasonable economic hardship.**

A. Declaration of unreasonable economic hardship. The Historic and Cultural Landmarks Commission may declare that an unreasonable economic hardship exists as a basis for:

1. Recommending removal of the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation; or
2. Issuing a certificate of appropriateness approving the demolition or relocation of property designated or pending designation as highly significant endangered or historic and cultural landmark or located in an area designated or pending designation as an historic and cultural landmarks district.

B. Burden of proof. When a claim of unreasonable economic hardship is made, the owner must prove by a preponderance of the evidence that:

1. The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;
2. The structure or property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return; and
3. The owner has failed to find a purchaser or tenant for the property during the previous two years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.

C. Claim for historic and cultural landmarks districts. Owners of individual structures or sites located in an historic and cultural landmarks district are entitled to a certificate of appropriateness for demolition or relocation upon proof of unreasonable economic hardship; however, an historic and cultural landmarks district designation shall be removed only from the entire district, upon proof that the designation results in an unreasonable economic hardship to the district as a whole. Individual structures or sites shall not be removed from an historic and cultural landmarks district.

D. Consultation and search for alternatives. The owner, persons or entities who have executed a sales contract or option contract for purchase of the property, or their representatives, the Historic and Cultural Landmarks Commission, local preservation groups and interested parties shall consult in good faith, as outlined in Section 4.504 (D) in a diligent effort to seek alternatives that will eliminate the unreasonable economic hardship and preserve the structure or property.

E. Affidavit of hardship. As evidence that an unreasonable economic hardship exists, the owner may submit the following information to the Historic and Cultural Landmarks Commission by affidavit:

1. For all structures and property:
  - a. The past and current use of the structures and property;

- b. The name and legal status (e.g., partnership, corporation) of the owners;
  - c. The original purchase price of the structures and property;
  - d. The assessed value of the structures and property according to the two most recent tax assessments;
  - e. The amount of real estate taxes on the structures and property for the previous two years;
  - f. The date of purchase or other acquisition of the structures and property;
  - g. Principal balance and interest rate on current mortgage and the annual debt service on the structures and property, if any, for the previous two years;
  - h. All appraisals obtained by the owner or applicant within the previous two years in connection with the owner's purchase, financing or ownership of the structures and property;
  - i. Any listing of the structures and property for sale or rent, price asked and offers received;
  - j. Any consideration given by the owner to profitable adaptive uses for the structures and property;
  - k. Any replacement construction plans for proposed improvements on the site;
  - l. Financial proof of the owner's ability to complete any replacement project on the site, which may include but not be limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and
  - m. The current fair market value of the structure and property as determined by a qualified appraiser.
2. For income producing structures and property:
- a. Annual gross income from the structure and property for the previous two years;
  - b. Itemized operating and maintenance expenses for the previous two years; and
  - c. Annual cash flow, if any, for the previous two years.
3. In the event that the Historic and Cultural Landmarks Commission determines that any additional information described above is necessary in order to evaluate whether an unreasonable economic hardship exists, the Historic and Cultural Landmarks Commission shall notify the owner. Failure by the owner to submit such information to the Historic and Cultural Landmarks Commission within 15 days after receipt of such notice, which time may be extended by the Historic and Cultural Landmarks Commission, will be grounds for denial of the owner's claim of unreasonable economic hardship.

**Sec. 4.507. Designation as highly significant endangered ("HSE").**

A. A site or structure may be designated as highly significant endangered if it satisfies the following qualifications:

- 1. It meets five or more of the criteria set out in Section 4.502D; and

2. It is determined by the city council to be threatened by deterioration, damage or irretrievable, irreplaceable loss due to neglect, disuse, disrepair, instability, lack of financial resources and/or impending demolition. The nomination for designation shall describe how the structure meets the pertinent criteria in Paragraph D of this section, the existing and proposed use of the structure, any planned stabilization and/or rehabilitation by the property owner, and the nature and degree of endangerment to the structure. A structure designated highly significant endangered shall be deemed to be a historically significant site in need of tax relief to encourage its preservation, in accordance with section 11.24 of the Texas Tax Code.

B. Eligibility for tax incentives.

1. In order for property designated highly significant endangered to be eligible for tax incentives, all work shall be performed in accordance with the provisions of this chapter and applicable city codes and ordinances. The Historic and Cultural Landmarks Commission and the city council shall review and approve applications for the tax incentive at the commencement of the project and upon satisfactory completion of the project.
2. Property designated as highly significant endangered shall be eligible for rehabilitation incentives once every 20 years.

C. Exemption for Stabilization of Highly Significant Endangered Structure

1. Description of Incentives. A structure designated Highly Significant Endangered, which is stabilized in accordance with this Section, and the land necessary for access to and use of the structure, shall be entitled to the following tax benefits ("Stabilization Incentives") for a period of years as hereinafter set forth:

- a. The owner of the structure shall be entitled to exemption from City ad valorem taxes of all of the assessed value of the structure, commencing in the tax year immediately following the year in which the work is completed. The exemption under this paragraph terminates when an owner qualifies for Rehabilitation Incentives under Paragraph D. below, or after 10 years, whichever occurs later. In the event that the owner substantially rehabilitates the structure, but does not seek approval of the Rehabilitation Incentives under Paragraph C., the exemption under this paragraph shall terminate on the same date that the Rehabilitation Incentives would have terminated if the owner had followed the procedures set out in Paragraph D. below. Nothing in this Article relieves the owner from the responsibility to submit an application for the exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. The Historic Preservation Officer shall assist the owner in filing for such exemption, at the request of the owner.
- b. The owner of the structure shall be entitled to recover a part or all of the cost of such work through a partial exemption from City ad valorem taxes of up to 50 percent of the value of the land necessary for access to and use of the structure for a period not to exceed five years. The exemption shall

commence in the tax year immediately following the year in which the work is completed. In the event that the tax savings arising from the partial exemption for such one-year period is less than the cost of such work, the partial exemption may be carried over from year to year, for a total period not to exceed five years. The owner will not be eligible for a partial exemption for stabilization subsequent to rehabilitation of the property and receipt of the Rehabilitation Incentives under Paragraph D. Nothing in this Article relieves the owner from the responsibility to submit an application for the exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. The Historic Preservation Officer shall assist the owner in filing for such exemption, at the request of the owner.

2. Stabilization. "Stabilization" of a structure designated as Highly Significant Endangered shall consist of exterior and interior improvements required to prevent further deterioration of the structure, as determined by the Building Official, but at a minimum shall include the following:
  - a. The foundation shall be stable, have any defects that might affect the continued safety and life of the building corrected, and be made as level as reasonably possible;
  - b. The roof shall be made water tight, replacing any defective material including wet or damaged insulation, shingles or wood elements;
  - c. Correction of any defective enclosures, e.g. windows, doors and vents, that might allow for the entry of water, birds, rodents or vectors (bugs or animal capable of carrying a disease producing organism);
  - d. Taking corrective action for the elimination of any infestation, e.g. termites, roaches, water bugs, mosquitoes, ticks, rodents, etc.; and
  - e. Correcting any item that might be considered as a hazard to fire fighting efforts. For this item, the Building Official may consult with the Fire Chief or his designee.
3. Eligible Costs. Eligible projects shall consist of work performed for the stabilization of the structure and may include exterior improvements and interior improvements to the frame, walls, floor, ceiling, plumbing, electrical wiring and mechanical items, such as heating and air conditioning systems. Fixtures and decorative items shall not be eligible for consideration. Materials and labor for repairing, replacing or adding any of the following shall be eligible:
  - a. Structural walls;
  - b. Structural sub floors;
  - c. Structural ceilings;
  - d. Exterior doors;
  - e. Exterior paint;
  - f. Mechanical equipment;
  - g. Windows;
  - h. Exterior brick veneers or treatments;
  - i. Plumbing;
  - j. Electrical wiring;



- k. Roof and gutter where necessary for structural integrity;
- l. Facade items;
- m. Elevators;
- n. Foundations;
- o. Termite damage and treatment;
- p. Security and/or fire protection systems;
- q. Architectural and engineering services if directly related to the eligible costs described above; and
- r. Demolition and cleanup if directly related to the eligible costs described above.

4. Ineligible Costs. Ineligible costs include, but are not limited to, the following:

- a. Plumbing and electrical fixtures; provided, however, documented replacement of historic fixtures may be considered eligible;
- b. Overhead;
- b. Taxes;
- c. Supervisor payroll;
- d. Repairs of construction equipment;
- e. Tools; and
- f. Any other items not directly related to the exterior appearance or the structural integrity or viability of the building.

D. Tax incentives for rehabilitation of highly significant endangered structure.

1. Description of incentives. A structure designated highly significant endangered, which is substantially rehabilitated in accordance with this section, and the land necessary for access to and use of the structure, shall be entitled to the following tax benefits ("Rehabilitation Incentives") for a period of years as hereinafter set forth:
  - a. Exemption from city ad valorem taxes of all of the assessed value of the structure;
  - b. Exemption from city ad valorem taxes of any increase in the assessed value of the land necessary for access to and use of the structure, in excess of the assessed value for the tax year immediately prior to commencement of the rehabilitation. The assessed value of the land necessary for access to and use of the structure for city ad valorem tax valuation purposes shall be equal to the assessed value of such land for the tax year immediately prior to commencement of the rehabilitation; provided, however, in the event that such land is subsequently assessed at a lower value than the assessed value for the tax year immediately prior to commencement of the rehabilitation, the lower value will apply.
2. Substantial rehabilitation. "Substantial rehabilitation" of a structure designated as highly significant endangered shall consist of rehabilitation at a cost which equals or exceeds the greater of 30 percent of the assessed value of the structure prior to rehabilitation, or three thousand dollars (\$3,000.00).

3. Term of rehabilitation incentives. The term of the rehabilitation incentives shall be a minimum of ten years commencing on the first day of the tax year following verification by the city council of completion of the rehabilitation pursuant to this chapter. In order to encourage early rehabilitation, the term of the rehabilitation incentives may be increased for up to an additional five years. If the rehabilitation is completed and the project passes all final inspections within two years after designation as highly significant endangered, the rehabilitation incentives shall be for a period of 15 years commencing on the first day of the tax year following verification by the city council of completion of the rehabilitation pursuant to chapter. The term of the rehabilitation incentives shall decrease by one year for every year that completion of rehabilitation is delayed, to a minimum term of ten years. Upon expiration of the term of the rehabilitation incentives, the structure and the land necessary for access to and use of the structure shall be taxed at the assessed value.
  4. Application for incentives. An application for incentives shall be filed with the historic preservation officer in accordance with Section 4.508E.
  5. Execution of commitment to repay. Upon satisfactory completion of the rehabilitation project, the owner shall record with the deed a document provided by the historic preservation officer as a notice of the historic site tax exemption and commitment to repay taxes in the event of default. The purpose of this document shall be to provide information on the terms of the tax incentive and penalties for negligently or willfully destroying a property during the period of exemption. The commitment shall be filed in the official property records of the county where the property is located, shall run with the land and shall bind the owner and any heirs and assigns. Any unpaid amount shall constitute a lien against the property. Failure to record such a document may result in the delay of receipt of incentives.
  6. Submittal of application to appraisal district. Nothing in this article relieves the owner from the responsibility to submit an application for the exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. The historic preservation officer shall assist the owner in filing for such exemption, at the request of the owner.
- E. Removal of highly significant endangered designation.
1. The highly significant endangered designation may be removed for the following reasons:
    - a. It is determined that the site or structure is no longer historically, culturally, architecturally or archaeologically significant under the criteria listed in section 4.502E;
    - b. It is determined that the site or structure is no longer endangered; or

- c. It is determined that such designation creates an unreasonable economic hardship upon the owner or owners in accordance with the provisions of section 4.506.
2. An applicant seeking removal of the highly significant endangered designation on the basis that the site or structure is no longer endangered shall simultaneously nominate such structure for designation as historic and cultural landmark. The application for removal of the highly significant endangered designation and the request for designation of such property as historic and cultural landmark shall be considered and decided concurrently; provided, however, failure to designate such property as historic and cultural landmark by the city council shall not be grounds for denial of the application for removal of the highly significant endangered designation.
3. Within ten days after approval by the city council of removal of the designation, the historic preservation officer shall remove the highly significant endangered designation from the official zoning maps of the city and shall file a notice that the highly significant endangered designation has been removed in the official property records of the county in which the property is located. In addition, if applicable, the historic preservation officer shall record the historic and cultural landmark designation on the city's official zoning maps and record such designation in the property records of the county in which such property is located.

**Sec. 4.508. Designation as historic and cultural landmark ("HC").**

A. An individual structure or site may be designated as an historic and cultural landmark if it meets three or more of the criteria set out in Section 4.502D. An area which includes two or more structures or sites which satisfy three or more of such criteria may be designated as an historic and cultural landmarks district.

B. Eligibility for tax incentives.

1. Property designated as historic and cultural landmark or considered to contribute to a historic and cultural landmark district shall be eligible for tax incentives under the provisions of this section.
2. In order for property designated historic and cultural landmark or considered to contribute to a historic and cultural landmark district to be eligible for tax incentives, all work shall be performed in accordance with the provisions of this chapter and applicable city codes and ordinances. The Historic and Cultural Landmarks Commission and the city council shall review and approve applications for the tax incentive at the commencement of the project and upon satisfactory completion of the project.
3. Property designated as historic and cultural landmark or considered to contribute to a historic and cultural landmark district shall be eligible for rehabilitation incentives once every 20 years.

C. Tax incentive for rehabilitation of a historic and cultural landmark.

1. Description of Incentive. Any structure which is designated historic and cultural landmark or which is considered to contribute to an historic and cultural landmarks district and which is substantially rehabilitated in accordance with this chapter, and the land necessary for access to and use of the structure, shall be eligible for the following tax benefits ("Rehabilitation Incentives") for a period of years as hereinafter set forth:

- a. A structure and land as described above shall have an assessed value for city tax valuation purposes equal to the assessed value of such structure and land for the tax year immediately prior to commencement of the rehabilitation. The term of the incentives is ten years commencing on the first day of the tax year following verification by the city council of completion of the rehabilitation pursuant to this section. Any increase in the value of the structure and the land necessary for access to and use of the structure in excess of the assessed value for the tax year immediately prior to commencement of the rehabilitation shall be exempt from city ad valorem taxes for such ten-year period. In the event that the structure or the land is assessed during such ten-year period at a lower value than the assessed value for the tax year immediately prior to commencement of the rehabilitation, the lower value will apply.
- b. "Substantial rehabilitation" shall consist of rehabilitation at a cost which equals or exceeds the greatest of 30 percent of the assessed value of the structure prior to rehabilitation or three thousand dollars (\$3,000.00).
- c. Execution of commitment to repay. Upon satisfactory completion of the rehabilitation project, the owner shall record with the deed a document provided by the historic preservation officer as a notice of the historic site tax exemption and commitment to repay taxes in the event of default. The purpose of this document shall be to provide information on the terms of the tax incentive and penalties for negligently or willfully destroying a property during the period of exemption. The commitment shall be filed in the official property records of the county where the property is located, shall run with the land and shall bind the owner and any heirs and assigns. Any unpaid amount shall constitute a lien against the property. Failure to record such a document may result in the delay of receipt of incentives.
- d. Nothing in this article relieves the owner from the responsibility to submit an application for the exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. The historic preservation officer shall assist the owner in filing for such exemption, at the request of the owner.

- D. Application submitted after the commencement of work for which a certificate of appropriateness is not required.

1. The provisions of this paragraph shall apply only to work that meets the following conditions:
    - (a) the work is completed on a structure that is designated as a historic and cultural landmark or that is considered to contribute to a historic and cultural landmark district, including the land necessary for access to and use of said structure;
    - (b) The work does not require a certificate of appropriateness; and
    - (c) An application for tax exemption is filed within five (5) years after the completion of the work.
  2. Such work shall be eligible for tax exemption following verification by the city council of the work performed, provided that the structure has been substantially rehabilitated in accordance with this chapter. The terms and requirements for the incentive shall be as described in this section. The owner shall not be eligible for the tax incentive or be reimbursed for ad valorem taxes paid by the owner on the structure or land for any years prior to the submission of an application for a tax incentive and verification by the city council of the work performed.
  3. Execution of commitment to repay. Upon satisfactory completion of the rehabilitation project, the owner shall record with the deed a document provided by the historic preservation officer as a notice of the historic site tax exemption and commitment to repay taxes in the event of default. The purpose of this document shall be to provide information on the terms of the tax incentive and penalties for negligently or willfully destroying a property during the period of exemption. The commitment shall be filed in the official property records of the county where the property is located, shall run with the land and shall bind the owner and any heirs and assigns. Any unpaid amount shall constitute a lien against the property. Failure to record such a document may result in the delay of receipt of incentives.
  4. Nothing in this article relieves the owner from the responsibility to submit an application for the exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. The historic preservation officer shall assist the owner in filing for such exemption, at the request of the owner.
- E. Application for incentives. Application for a city ad valorem tax exemption shall be filed with the historic preservation officer. The application may be processed concurrently with the application for any certificate of appropriateness which may be required under section 4.504. The application shall be signed and sworn to by the owner of the property and shall:
1. State the legal description and the address of the property;
  2. Provide proof of title in the application to the property proposed for certification;
  3. Provide proof that taxes or other assessments are not delinquent on the property;

4. Include a complete set of plans and/or documentation for the stabilization or rehabilitation, and verify compliance with established guidelines and city codes;
5. Include a scope of work which includes a list of eligible costs;
6. For rehabilitation projects, include a statement of costs reflecting that the costs equal or exceed the greater of 30 percent of the assessed value of the structure or three thousand dollars (\$3000.00);
7. Include a projection of the estimated construction time and predicted completion date;
8. Authorize members of the Historic and Cultural Landmarks Commission and officers of the city to visit and inspect the property;
9. Provide any additional information to the Historic and Cultural Landmarks Commission which is necessary in determining eligibility or which the owner deems relevant or useful;
10. Contain a written agreement to maintain the site or structure in accordance with the Secretary of the Interior's Standards for Rehabilitation, applicable codes of the City of Fort Worth and design guidelines for the duration of the exemption; and
11. Contain sufficient documentation supporting the information submitted therein.

F. Consideration of application for tax incentives.

1. Review by Historic and Cultural Landmarks Commission. Upon receipt of the application, the Historic and Cultural Landmarks Commission shall make an investigation of the property and shall certify facts relating to the project to the historic preservation officer during the next regular hearing, together with the Historic and Cultural Landmarks Commission's documentation and recommendation for approval or disapproval of the application for exemption.
2. Review by city council. Upon receipt of the application for city ad valorem tax exemption and the recommendation of the Historic and Cultural Landmarks Commission, the historic preservation officer shall forward the application to the city council no less than once per fiscal quarter. The city council shall approve the application, subject to compliance with all certificates of appropriateness requirements and verification of satisfactory completion of the project, provided that the owner is eligible for such incentive and has submitted all required information. Notice of approval or disapproval shall be provided to the applicant in writing.

G. Expiration of application for tax incentives.

1. An application for tax incentives shall expire after a period of 24 months from the date of review by the city council with a finding by the historic preservation officer that:
  - a. Work on the project has not commenced or has ceased substantial advancement;
  - b. The applicant has failed to obtain the necessary permits for work
  - c. Such permits for work have expired; or
  - d. The project has been subject to outstanding citations for violations of applicable city codes or regulations.

2. Where an applicant may provide evidence to contradict the findings for expiration, the historic preservation officer may recommend approval of the verification to the Historic and Cultural Landmarks Commission under the original application.
3. Where an applicant is unable to provide such evidence a new application may be filed for tax incentives under the provisions of chapter and may be considered, where all requirements of section 4.508D have been met, for verification.

H. Verification of completion of project.

1. Submission of statement by applicant. Upon completion of a stabilization or rehabilitation project the applicant shall submit the following documents to the historic preservation officer:
  - a. Sworn statement of completion of the project;
  - b. Copies of all receipts for cost of project;
  - c. Documentation that all required inspections of the project have been performed by the development department;
  - d. In the case of stabilization projects, proof that costs are eligible;
  - e. In the case of rehabilitation projects, proof that the cost of the rehabilitation equals or exceeds the greatest of 30 percent of the assessed value of the structure prior to rehabilitation or three thousand dollars (\$3,000.00). Such costs may be determined according to the value of the permits issued by the development department and/or proof of actual expenditures; and
  - f. Proof that a certificate of occupancy has been issued, if applicable.
2. Verification by Historic and Cultural Landmarks Commission. The Historic and Cultural Landmarks Commission, upon receipt of the sworn statement of completion, shall make an investigation of the property and shall verify whether the stabilization or rehabilitation project has been completed at the next regular hearing. If verification of completion is unfavorable, the applicant shall be required to complete the project in order to secure the city ad valorem tax exemption provided herein. If the verification of completion is favorable, the Historic and Cultural Landmarks Commission shall submit the application for tax incentive to the city council for approval. A project shall be considered completed when all of the following requirements have been met:
  - a. The applicant has submitted all information required under paragraph 1 above;
  - b. Rehabilitation costs equal or exceed the required amount;
  - c. The project has passed all required final inspections and has obtained a certificate of occupancy, if required; and
  - d. All work has been performed in accordance with the certificate of appropriateness and the applicable guidelines and codes.
3. Verification by city council and notification of taxing authorities. No less than once per fiscal quarter, the city council shall review and verify completion of projects for tax incentives. After verification of satisfactory completion of the stabilization or rehabilitation project, the city council shall declare the property

to be entitled to the city ad valorem tax relief provided herein. Approval by the city council of a project for rehabilitation of a structure designated historic and cultural landmark or considered to contribute to an historic and cultural landmarks district shall constitute a finding that the structure is a historically significant site in need of tax relief in accordance with section 11.24 of the Texas Tax Code.

- a. The historic preservation officer shall give written notice of approval of the tax incentive to the chief appraiser of the appraisal district for the county in which the property is located and the tax assessor-collector of the City of Fort Worth.
    - b. Thereafter, the owner shall be entitled to the applicable tax incentive commencing on January 1 of the tax year immediately following approval by the city council.
    - c. Nothing in this article relieves the owner from the responsibility to apply to the appraisal district for the county in which the property is located each year for the exemption pursuant to the terms of the Texas Tax Code. The historic preservation officer shall assist the owner in filing for such exemption, at the request of the owner.
  4. Execution of commitment to repay. Upon satisfactory completion of the rehabilitation project, the owner shall record with the deed a document provided by the historic preservation officer as a notice of the historic site tax exemption and commitment to repay taxes in the event of default. The purpose of this document shall be to provide information on the terms of the tax incentive and penalties for negligently or willfully destroying a property during the period of exemption. The commitment shall be filed in the official property records of the county where the property is located, shall run with the land and shall bind the owner and any heirs and assigns. Any unpaid amount shall constitute a lien against the property. Failure to record such a document may result in the delay of receipt of incentives.
- I. Alteration or destruction of structure or site.
1. Willful or negligent alteration or destruction. In order to maintain eligibility for a tax exemption in accordance with this article, the owner and any representative shall not alter or totally or partially destroy the historically significant structure or site by willful act or negligence during the period of the exemption. In the event that the historically significant structure or site is altered or totally or partially destroyed by the willful act or negligence of the owner or a representative, the owner shall notify the historic preservation officer and the chief appraiser of the appraisal district for the county in which the property is located that he is no longer entitled to the exemption. In addition, if the Historic and Cultural Landmarks Commission has reason to believe that a structure or site benefiting from a tax exemption has been altered or totally or partially destroyed by the willful act or negligence of its owner or a representative during the period of the exemption, the Historic and Cultural Landmarks Commission shall request that the city manager immediately cause the matter to be scheduled for the earliest possible consideration by the city council. If, after giving notice of a hearing to the owner, the city council determines that the



structure or site has been totally or partially destroyed or altered by the willful act or negligence of the owner or a representative, the owner shall take corrective measures, if feasible, within the time specified by the city council. If the owner fails to take such corrective measures or if corrective measures are not feasible, the owner shall immediately repay to the city all of the city tax revenues that were not paid because of the exemption plus interest calculated at an annual rate of ten percent, in accordance with the terms of the commitment to repay. The city's remedies pursuant to the commitment to repay shall be in addition to all rights and remedies pursuant to the Texas Tax Code.

2. Alteration or destruction other than by willful act or negligence. Where a structure or site benefiting from a tax exemption described herein is totally or partially destroyed or altered by other than the willful act or negligence of the owner or a representative, the owner shall, within 30 days, apply for a certificate of appropriateness to authorize reconstruction of the structure or site in accordance with applicable construction codes of the City of Fort Worth and design guidelines. In the event that repair is not feasible, the owner shall, within 30 days, apply for a certificate of appropriateness to authorize demolition or relocation. For good cause shown by the property owner, the Historic and Cultural Landmarks Commission may extend the time for filing the application. The determination of whether repair is feasible or demolition should be allowed shall be made by the Historic and Cultural Landmarks Commission in accordance with the certificate of appropriateness criteria and procedures set forth in section 4.504. In cases where a certificate of appropriateness is issued for demolition or relocation because repair is not feasible, repayment of the tax revenues and interest is not required.
3. Public safety hazard. The provisions shall not limit the authority of the building official or the superintendent of the code compliance division to take action concerning structures or property which constitutes a public safety hazard.

J. Monitoring system. The status of structures or sites benefiting from the tax exemptions described herein shall be monitored by the historic preservation officer during the period of the exemption to ensure continued compliance with applicable design guidelines for such structure. The historic preservation officer shall notify the owner of violations in writing and shall specify a deadline for correction of such violations. If satisfactory corrective measures are not undertaken within the time specified by the historic preservation officer, the Historic and Cultural Landmarks Commission shall initiate procedures to terminate the city tax exemption and require payment of the city taxes, plus interest calculated at the rate of ten percent per year, pursuant to the terms of the commitment to repay.

K. Transferability of tax benefits. The benefits of this city ad valorem tax incentive program relating to structures designated highly significant endangered and historic and cultural landmark and structures considered to contribute to an historic and cultural landmarks district are transferable and run with the property.

L. Removal of historic and cultural landmark designation.

1. The historic and cultural landmark designation, whether relating to individual properties or to an historic and cultural landmarks district, may be removed for the following reasons:
  - a. It is determined that the site, structure or area, as applicable, is no longer historically, culturally, architecturally or archaeologically significant under the criteria listed in section 4.502D; or
  - b. It is determined that such designation creates an unreasonable economic hardship upon the owner or owners in accordance with the provisions of section 4.506.
2. The historic and cultural landmarks district designation may be removed only from a district as a whole. The designation shall not be removed from individual sites or structures located within a district.
3. The historic preservation officer shall remove the historic and cultural landmark designation from the official zoning maps of the city and shall file a notice that the designation has been removed in the official property records of the county in which such property is located within ten days after approval by the city council of removal of the designation.

**Sec. 4.509. Designation as demolition delay ("DD").**

A. Designation. A structure may be designated demolition delay if it satisfies one or more of the following qualifications:

1. Designated as a Recorded Texas Historic Landmark;
2. Designated as a Texas State Archeological Landmark;
3. Designated as an American Civil Engineering Landmark;
4. Listed on the National Register of Historic Places; or
5. It meets two or more of the criteria set out in Section 4.502D.

B. Designation of demolition delay property as highly significant endangered or historic and cultural landmark.

1. Owners of structures designated demolition delay who have filed an application for a certificate of appropriateness for demolition are subject to a delay in issuance of the permit of up to 180 days after a public hearing by the Historic and Cultural Landmarks Commission. It is the governing body's intent that owners of such property who have sought a certificate of appropriateness for demolition shall not be frustrated in their efforts to demolish or sell such property by extension of the delay period through nomination of property designated demolition delay as highly significant endangered or historic and cultural landmark over the objection of the owner.
2. Accordingly, if an owner of a structure designated demolition delay has filed an application for a certificate of appropriateness for demolition or if a demolition permit has been issued to an owner of such structure within the preceding three-year period, such structure shall not be nominated for designation as historic and cultural landmark or highly significant endangered

over the objection of the owner. However, an area which includes such structure may be designated as an historic and cultural landmarks district.

C. Removal of demolition delay designation.

1. The demolition delay designation may be removed for the following reasons:
2. It is determined that the site or structure no longer satisfies at least one of the criteria set out in section 4.502G;
3. It is determined that such designation creates an unreasonable economic hardship upon the owner or owners in accordance with the provisions of section 4.508; or
4. The site or structure is demolished in accordance with this section.
5. The historic preservation officer shall remove the demolition delay designation from the official zoning maps of the city and shall file a notice that the designation has been removed in the official property records of the county in which such property is located within ten days after approval by the city council of removal of the designation.

**Sec. 4.510. Demolition by neglect.**

A. Prevention of demolition by neglect of exterior. No owner or person with an interest in real property which is designated by the City of Fort Worth as demolition delay, highly significant endangered or historic and cultural landmark or which is located in an historic and cultural landmarks district, whether occupied or not, shall permit the structure or property to fall into a serious state of disrepair or to remain in a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic and Cultural Landmarks Commission, produce a detrimental effect upon the character of the structure or property, or, if the structure or property is in an historic and cultural landmarks district, upon the district. Examples of such deterioration include:

1. Deterioration of exterior walls or other vertical supports;
2. Deterioration of roofs or other horizontal members;
3. Deterioration of exterior chimneys;
4. Deterioration or crumbling of exterior stucco or mortar;
5. Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors;
6. Deterioration of any exterior feature so as to create a hazardous condition which could make demolition necessary for the public safety; or
7. Deterioration or removal of any unique exterior architectural feature which would detract from the original architectural style.

B. Prevention of demolition by neglect of interior. No owner or person with an interest in property which is designated demolition delay, highly significant endangered or historic and cultural landmark, including a structure in an historic and cultural landmarks district, whether occupied or not, shall permit the interior portions of such structure or property to fall into a serious state of disrepair which, in the judgment of the Historic and Cultural Landmarks Commission, produces a detrimental effect upon the structural

integrity of such structure or property which could make demolition necessary for the public safety.

**Sec. 4.511. Public safety hazards and emergency securing measures.**

A. Emergency securing of property. The code compliance division may perform emergency measures in accordance with city codes to secure any structure designated or pending designation in accordance with this article which constitutes a public safety hazard. Such work shall be performed in such manner as to minimize damage to the structure's historical and architectural elements. A certificate of appropriateness is not required. The superintendent of the code compliance division shall give notice of such emergency securing measures to the historic preservation officer.

B. Notice of demolition by city. The City of Fort Worth shall not allow demolition, demolish or order to be demolished, in whole or in part, property designated or pending designation as highly significant endangered, historic and cultural landmark or demolition delay or located in an area designated or pending designation as an historic and cultural landmarks district as a public safety hazard, except in compliance with this paragraph. The building official or the superintendent of the code compliance division shall notify the historic preservation officer of the intent to demolish such structure. The Historic and Cultural Landmarks Commission and the historic preservation officer shall be given an opportunity to discuss with city officials and the owner the feasibility of taking emergency measures to secure or stabilize the structure or property and to delay the demolition so that other alternatives may be considered. After any emergency measures are taken, the historic preservation officer shall meet with city officials to review the condition of the structure or property and any plans for rehabilitation. If, after ten days from the date of the notification to the historic preservation officer, the Historic and Cultural Landmarks Commission finds that no feasible plan for further protection of the structure or property has been developed, a certificate of appropriateness shall be issued by the Historic and Cultural Landmarks Commission for demolition of the structure or property. When appropriate, the Historic and Cultural Landmarks Commission may make a recommendation to the city council or other entities or persons about the feasibility of rehabilitation based on a report from the historic preservation officer. Demolition shall be the alternative of last resort and shall occur only if there is no economically feasible way to rehabilitate the structure or property.

C. Salvage plan. In connection with any certificate of appropriateness for demolition, relocation or other work on a structure or property designated or pending designation as highly significant endangered or historic and cultural landmark or located in an area designated or pending designation as an historic and cultural landmarks district, the Historic and Cultural Landmarks Commission may prepare and submit a salvage plan to the owner. Such plan may suggest salvage and preservation for reuse in restoration elsewhere, specified classes of building materials, architectural details, ornaments, fixtures and the like. The Historic and Cultural Landmarks Commission may require such owner to comply with the salvage plan as a condition for issuance of a certificate of appropriateness. Compliance with a salvage plan may not be imposed as a condition for issuance of a certificate of appropriateness for demolition of property designated

demolition delay; however, the Historic and Cultural Landmarks Commission may reduce the maximum 180 day delay period in consideration of compliance by the owner with a salvage plan.

**Sec. 4.512. Appeal; penalties.**

**A. Appeal to Appeals Board**

1. Any owner dissatisfied with any action of the Historic and Cultural Landmarks Commission, other than actions relating to designation, which shall be heard by the Historic and Cultural Landmarks Commission, the Zoning Commission and the City Council in accordance with Section 4.503, shall have the right to appeal to the Appeals Board within ten days after receipt of notification of such action, by filing a written notice of such appeal with the City Secretary and the Historic Preservation Officer. The written notice of appeal shall specify:
  - (a) That the decision of the commission is unreasonable, either in whole or in part; and
  - (b) The grounds for the appeal.
2. The Appeals Board shall schedule a hearing on such appeal within 30 days after receipt of the notice of appeal, or as soon thereafter as is reasonably practicable. Notice of such hearing shall be published by the City Secretary in the City's official newspaper not less than the 15<sup>th</sup> day before the date of the hearing. The Historic Preservation Officer shall forward to the Appeals Board a complete record of the matter being appealed, including a transcript of the tape of the hearing before the Historic and Cultural Landmark Commission. In considering an appeal, the Appeals Board shall:
  - a. Hear and consider testimony and evidence concerning the previous recommendations and actions of the city staff and the landmark commission.
  - b. Hear new testimony and consider new evidence that was not available at the time of the hearing before the Historic and Cultural Landmarks Commission;
  - c. Give deference to the decision of the Historical and Cultural Landmarks Commission, considering the record made before the Historic and Cultural Landmarks Commission. The Appeals Board may uphold, reverse or modify the decision of the Historic and Cultural Landmarks Commission within 30 days of the appeal hearing unless a continuance is agreed to by the owner.
3. A hearing before the Appeals Board shall exhaust the administrative remedies of the property owner under this title.

**B. Fines.** Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with the provisions of this article shall be fined not more than \$500.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

C. Restrictions on future development. If a structure designated highly significant endangered, historic and cultural landmark or demolition delay or located within the boundaries of an historic and cultural landmarks district is demolished or relocated without a certificate of appropriateness, then the following restrictions shall be applicable to the site where the structure or property was formerly located:

1. No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a certificate of appropriateness, for a period of three years after the date of such demolition or removal.
2. No permits shall be issued by the city for any curb cuts on the site for a period of three years from and after the date of such demolition or removal.
3. No parking lot for vehicles shall be operated on the site for a period of three years from and after the date of such demolition or removal.
4. The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site. When these restrictions become applicable to a particular site, the historic preservation officer shall cause to be filed a verified notice thereof in the real property records of the county where the site is located and such restrictions shall then be binding on future owners of the property. The restrictions imposed by this paragraph shall be in addition to any fines imposed pursuant to paragraph B above.

D. Cumulative remedies. The provisions of this section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under section 315.006 of the Texas Local Government Code and section 442.016 of the Texas Government Code.

## **SECTION 2.**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

## **SECTION 3.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared

unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 4.**

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

#### **SECTION 5.**

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinances No. 3011, 13896 and any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 6.**

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

**SECTION 7.**

All other provisions of the Zoning Ordinance of the City of Fort Worth not herein amended shall remain in full force and effect.

**SECTION 8.**

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: \_\_\_\_\_  
Assistant City Attorney

ADOPTED: \_\_\_\_\_  
EFFECTIVE: \_\_\_\_\_

DRAFT